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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking for the Purpose of
Amending General Order 156.

Rulemaking 06-04-011
(Filed April 13, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING
FINDING THE GREENLINING INSTITUTE ELIGIBLE
TO CLAIM INTERVENOR COMPENSATION**

I. Summary

The Greenlining Institute (Greenlining) filed a Notice of Intent (NOI) to claim intervenor compensation in this rulemaking proceeding on June 23, 2006. No party opposes the NOI. Greenlining is eligible to claim compensation pursuant to the requirements in Pub. Util. Code §§ 1801-1804.¹ However, a finding of eligibility for compensation does not guarantee an award of compensation.

II. NOI Requirements

A. Timely Filing

Pursuant to § 1804(a)(1), a customer who intends to seek an award of compensation shall, within 30 days after the Prehearing Conference (PHC) is held, file and serve an NOI on all parties to the proceeding. In proceedings where no PHC is held, the Commission may announce the procedure to be used

¹ All statutory references are to the Pub. Util. Code.

to file requests. Because of the anticipated short duration of this proceeding, no PHC was held. By an Administrative Law Judge (ALJ) Ruling (June 13, 2006), parties seeking intervenor compensation were required to file an NOI by June 23, with any responses to be filed by June 30, 2006.

Greenlining filed its NOI on June 23, 2006, within the time allowed by the ALJ Ruling. No response was filed. Greenlining has filed a timely NOI.

B. Customer Status

Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and whether the intervenor is 1) a participant representing consumers, 2) a representative authorized by a customer, or 3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.²

Greenlining meets this requirement as it is an organization authorized by its bylaws to represent the interests of residential customers, as defined in § 1802(b)(1)(C). The Commission has repeatedly determined that Greenlining is a “customer” under the intervenor compensation statutes (*see, e.g.,* ALJ Rulings in Application (A.) 04-12-014 (April 8, 2005) and A.05-12-002 (Mar. 7, 2006)).

² “When filing its Notice of Intent, a participant should state how it meets the definition of customer: as a *participant* representing consumers, as a *representative* authorized by a customer, or as a representative of a *group or organization* that is authorized by its bylaws or articles of incorporation to represent the interests of residential customers.” D.98-04-059, *mimeo.* at 28-29 (emphasis in original).

C. Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in its NOI. Section 1802(g) defines “significant financial hardship”:

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. Alternatively, the customer may make the required showing in the request for an award of compensation.

Greenlining seeks to demonstrate financial hardship in its NOI based on a rebuttable presumption of eligibility, pursuant to § 1804(b)(1). Under that section, a finding of significant financial hardship in one proceeding creates a mandatory rebuttable presumption of eligibility for compensation in another Commission proceeding commenced within one year of the earlier finding of significant financial hardship.

In an ALJ Ruling issued on April 8, 2005 in A.04-12-014, Greenlining was found to have demonstrated significant financial hardship. The present proceeding was commenced on April 13, 2006, beyond the one-year period contemplated by § 1804(b)(1). Greenlining is no longer eligible for the mandatory rebuttable presumption; however, since its NOI is unopposed and the one-year period is exceeded by only five days, I will apply a permissive

rebuttable presumption and find that, based on its April 2005 showing, Greenlining has demonstrated significant financial hardship.³

D. Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires the NOI to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. This proceeding was initiated by the Commission to revise General Order (GO) 156, which governs the Commission's process for verifying and determining the eligibility of women, minority, and disabled business enterprises (WMDVBE) for utility procurement contract opportunities. Because it represents "minority, low-income, inner city, and other vulnerable and underserved communities," NOI at 1, Greenlining indicates that it represents those persons who will be most affected by changes in the GO.

Specifically, Greenlining indicates that it will "(1) evaluate and suggest improvements to the proposed [WMDVBE] Clearinghouse system as it affects low-income consumers and minority small businesses, [and] (2) seek to represent small minority businesses generally." *Id.* at 3.

E. Itemized Estimate of Compensation

Section 1804(a)(2)(A)(ii) requires that an NOI include an itemized estimate of the compensation the customer expects to receive. While recognizing the difficulty of predicting participation in this rulemaking proceeding, Greenlining

³ Greenlining was also found eligible to claim intervenor compensation in the ALJ Ruling issued on March 7, 2006, in A.05-12-002.

estimates a total projected budget of \$69,450, as detailed below, based on proposed hourly rates it will support in its request for compensation.⁴

Amount	Description
\$47,700	Attorney and Advocate Fees: 60 hours of attorney Robert Gnaizda at \$495/hour 60 hours of attorney Carrie Camerena at \$300/hour
\$12,750	Fees for expert, John Gamboa, at \$425/hour
\$9,000	Other costs: Postage, copies, deliveries, supplies, phone at \$2000 Travel at \$1000 80 hours for paralegals at \$120/hour
\$69,450	Total

Greenlining satisfactorily presented itemized estimates of the compensation it expects to request, although the Commission will require far more specificity in the costs when Greenlining ultimately seeks compensation. Moreover, the number of hours, hourly rates, and other costs may be excessive due to the anticipated short duration of this proceeding and limited hearings. As must any intervenor, Greenlining must fully support its request for compensation, including the reasonableness of the hours spent, hourly rates, and other incurred costs.

IT IS RULED that:

1. The Greenlining Institute (Greenlining) has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it establish significant financial hardship and Greenlining is found eligible for compensation in these proceedings.

⁴ One of the subtotals set forth in the NOI is incorrect, apparently due to arithmetic error. The actual total of the itemized expenses (\$69,450) has been used in this ruling.

2. Greenlining is a customer as that term is defined in § 1802(b) and is a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.

3. A finding of eligibility in no way assures compensation.

4. When submitting its actual request for compensation, Greenlining must fully support its request for compensation, including the reasonableness of the hours spent, hourly rates, and other incurred costs.

Dated July 7, 2006, at San Francisco, California.

/s/ JOHN E. THORSON

John E. Thorson
Administrative Law Judge

INFORMATION REGARDING SERVICE

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Dated July 7, 2006, at San Francisco, California.

/s/ ELVIRA NIZ

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